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Before the
Federal Communications Commission
Washington, D.C. 20554

AUG 28 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re) CIB Docket No. 98-44
)
JOSEPH FRANK PTAK)
San Marcos, Texas)
)
Order to Show Cause Why a Cease and Desist)
Order Should Not Be Issued)

To: The Commission

**COMPLIANCE AND INFORMATION BUREAU'S
COMMENTS ON JOSEPH FRANK PTAK'S LETTER OF JULY 16, 1998**

1. By Order released August 14, 1998, FCC 98I-34, the Office of General Counsel asked the Compliance and Information Bureau ("Bureau") to comment on a letter dated July 16, 1998, from Joseph Frank Ptak ("Ptak") to the Chairman. That letter was not served on the Bureau and did not otherwise comply with the requirements of Section 1.302 of the Commission's Rules. 47 C.F.R. § 1.302. Nevertheless, the Bureau submits the following comments.

2. The Commission initiated the instant proceeding to determine whether a cease and desist order should be issued against Ptak because of his participation in the operation of an unlicensed radio station. The proceeding was also to determine whether a forfeiture up to \$11,000 should be imposed. By Summary Decision, FCC 98D-2, released July 6, 1998, ("Summary Decision"), Administrative Law Judge Richard L. Sippel concluded that a cease

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and desist order should be issued against Ptak and that a forfeiture of \$11,000 was warranted. As reflected in the Summary Decision, the evidence conclusively established that Ptak and his associates had knowingly operated a broadcast station without a license, notwithstanding specific and repeated warnings that such operation violated federal law.

3. The thrust of Ptak's letter is that he did not receive due process from this agency in regard to the instant proceeding. Among other things, Ptak complains that he could not participate in the prehearing conference because the venue of the proceeding was not changed from Washington, D.C. to San Marcos, Texas. Ptak also protests that he was disadvantaged because he was not allowed to replace his attorney, who is deceased.

4. Ptak's complaints should be rejected. Whether or not the requests for a change of venue were denied, Ptak had the right to appear at the conference by speakerphone. See 47 C.F.R. § 1.248(f). Whether by ignorance or design, he failed to do so. As for the death of his attorney, the Bureau notes that no attorney ever filed a Notice of Appearance on Ptak's behalf. In any event, the record in this proceeding shows extensive pleadings and correspondence filed by Ptak himself in May 1998 (See Summary Decision, paragraph 14), including a Motion to Dismiss Show Cause Hearing and Any Indictment for PRA Violations and Brief in Support of Motion to Dismiss For PRA Violations; a Motion to Extend All Filing Dates; a Motion to be Informed of All Filing Dates; a Motion for Continuance; a Motion to Proceed In Forma Pauperis; and a Motion to Dismiss Show Cause Hearing and any Indictment: Unconstitutionality of Section 301. Moreover, Ptak ignored the Bureau's June 2, 1998, Motion for Summary Decision. Instead, he filed numerous unrelated pleadings on June

16, 1998, (see Summary Decision, paragraph 2). In short, Ptak has had the opportunity to present his case. He simply failed to show why the cease and desist order should not be issued; likewise, he failed to show why the forfeiture should not be imposed.

5. Although Ptak claims that his business is properly registered with the State of Texas and that his station provides a community service, these and all such related claims are irrelevant in this proceeding. The uncontested fact remains: Ptak is operating a broadcast station without a license in violation of the Communications Act, for which he has failed to apply for either a license or a waiver. As the foregoing suggests, Ptak's understanding of Commission procedures is selective. He complies with those that suit him, but otherwise ignores them.

6. In conclusion, Ptak has not demonstrated that the Summary Decision should be reversed or otherwise modified. He has shown no error, procedural or substantive. His letter does not comply with the requirements of Section 1.302 of the rules, either as an appeal or as a notice thereof. Accordingly, the Commission should dismiss Ptak's letter and confirm the Summary Decision.

7. The Bureau notes, however, that in reviewing the Commission record in this proceeding, it has learned that the Office of Public Affairs cannot confirm that it sent a copy of Judge Sippel's Summary Decision to Ptak. In view of that, and in the interest of fairness

and a complete record in this proceeding, the Bureau would not object to Ptak's being afforded additional time to respond. Therefore, we request that he be given 30 days from the date that the summary decision is mailed to him by the Commission to respond to the Summary Decision.

Respectfully submitted,
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Compliance and Information Bureau

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August 27, 1998

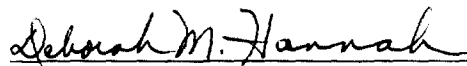
CERTIFICATE OF SERVICE

I, Deborah M. Hannah, certify that I have, on this 28th day of August, 1998, sent by certified mail, return receipt requested, and by regular United States mail, a copy of the foregoing, "Compliance and Information Bureau's Comments on Joseph Frank Ptak's Letter of July 16, 1998" to:

Joseph Frank Ptak
505 Patricia Drive
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cc: Administrative Law Judge Richard L. Sippel (hand delivery)
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